

AMENDED IN SENATE AUGUST 26, 2002

AMENDED IN SENATE AUGUST 19, 2002

AMENDED IN SENATE AUGUST 7, 2002

AMENDED IN ASSEMBLY APRIL 25, 2002

AMENDED IN ASSEMBLY APRIL 15, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 2131

Introduced by Assembly Member Bogh

February 20, 2002

An act to amend Section 21419 of, and to add Section 31897.6 to, the Government Code, and to amend Section 4850.4 of the Labor Code, relating to workers' compensation.

LEGISLATIVE COUNSEL'S DIGEST

AB 2131, as amended, Bogh. Workers' compensation: advanced disability pension benefits.

Existing workers' compensation law permits a city, county, special district, or harbor district that is a member of the Public Employees' Retirement System, is subject to the County Employees Retirement Law of 1937, or is subject to the Los Angeles City Employees' Retirement Systems, to make advanced disability pension payments to any local safety officer who meets certain criteria and is approved for a disability allowance.

Existing law, commencing January 1, 2003, requires these entities to make these advanced disability pension payments commencing no later

than 30 days from the date of issuance of the employee's last regular payment for wages or salary, payment for specified benefits, or payment for sick leave, unless certain conditions exist.

Existing law, commencing January 1, 2003, requires these advanced disability pension payments to continue until the claimant is approved or disapproved for a disability allowance pursuant to final adjudication as provided by law.

This bill would, if the above requirements to commence January 1, 2003, become operative, specify that if an employee's disability application is denied, the local agency and the employee shall arrange for the employee to repay all advanced disability pension payments.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 21419 of the Government Code is
2 amended to read:

3 21419. This system shall deduct the amount of advanced
4 disability pension payments made to a local safety member
5 pursuant to Section 4850.3 or 4850.4 of the Labor Code from the
6 member's retroactive disability allowance, and reimburse the
7 local agency that has made the advanced disability pension
8 payments. If the retroactive disability allowance is not sufficient
9 to reimburse the total advanced disability pension payments, an
10 amount no greater than 10 percent of the member's monthly
11 disability allowance shall be deducted and reimbursed to the local
12 agency until the total advanced disability pension payments have
13 been repaid. The local safety member and this system may agree
14 to any other arrangement or schedule for the member to repay the
15 advanced disability pension payments.

16 SEC. 2. Section 31897.6 is added to the Government Code, to
17 read:

18 31897.6. The board shall deduct the amount of advanced
19 disability pension payments made to a local safety member
20 pursuant to Section 4850.3 or 4850.4 of the Labor Code from the
21 member's retroactive disability pension payments. If the
22 retroactive disability allowance is not sufficient to reimburse the
23 total advanced disability pension payments, an amount no greater
24 than 10 percent of the member's monthly disability allowance

1 shall be deducted and reimbursed to the local agency until the total
2 advanced disability pension payments have been repaid. The local
3 safety member and this system may agree to any other
4 arrangement or schedule for the member to repay the advanced
5 disability pension payments.

6 SEC. 3. Section 4850.4 of the Labor Code, as added by
7 Chapter 189 of the Statutes of 2002, is amended to read:

8 4850.4. (a) A city, county, special district, or harbor district
9 that is a member of the Public Employees' Retirement System, is
10 subject to the County Employees Retirement Law of 1937, or is
11 subject to the Los Angeles City Employees' Retirement Systems,
12 shall make advanced disability pension payments in accordance
13 with Section 4850.3 unless any of the following is applicable:

14 (1) After an examination of the employee by a physician, the
15 physician determines that there is no discernable injury to, or
16 illness of, the employee.

17 (2) The employee was incontrovertibly outside the course of
18 his or her employment duties when the injury occurred.

19 (3) There is proof of fraud associated with the filing of the
20 employee's claim.

21 (b) Any employer described in subdivision (a) who is required
22 to make advanced disability pension payments, shall make the
23 payments commencing no later than 30 days from the date of
24 issuance of the last disbursed of the following:

25 (1) The employee's last regular payment of wages or salary.

26 (2) The employee's last payment of benefits under Section
27 4850.

28 (3) The employee's last payment for sick leave.

29 (c) The advanced disability payments shall continue until the
30 claimant is approved or disapproved for a disability allowance
31 pursuant to final adjudication as provided by law.

32 (d) An employer described in subdivision (a) shall be required
33 to make advanced disability pension payments only if the
34 employee does all of the following:

35 (1) Files an application for disability retirement at least 60 days
36 prior to the payment of benefits pursuant to subdivision (a).

37 (2) Fully cooperates in providing the employer with medical
38 information and in attending all statutorily required medical
39 examinations and evaluations set by the employer.

1 (3) Fully cooperates with the evaluation process established by
2 the retirement plan.

3 (e) The 30-day period for the commencement of payments
4 pursuant to subdivision (b) shall be tolled by whatever period of
5 time is directly related to the employee's failure to comply with the
6 provisions of subdivision (d).

7 (f) After final adjudication, if an employee's disability
8 application is denied, the local agency and the employee shall
9 arrange for the employee to repay any advanced disability pension
10 payments received by the employee pursuant to this subdivision.
11 ~~Any~~ The repayment plan shall take into account the employee's
12 ability to repay ~~any the~~ advanced disability payments received,
13 ~~and the terms of repayment shall not cause the employee financial~~
14 ~~hardship.~~ Absent an agreement on repayment, the matter shall be
15 submitted ~~to the adjudicator for a local agency administrative~~
16 ~~appeals remedy that includes an independent level of resolution to~~
17 determine a reasonable repayment plan. *If repayment is not made*
18 *according to the repayment plan, the local agency may take*
19 *reasonable steps, including litigation, to recover the payments*
20 *advanced.*

21 SEC. 4. Sections 1 and 2 of this act shall become operative
22 only if Assembly Bill 1982, Chapter 189 of the Statutes of 2002,
23 becomes operative and adds Section 4850.4 to the Labor Code.

